

1 JUDGE ROBERT J. BRYAN  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

7 UNITED STATES OF AMERICA, ) No. CR15-5351RJB  
8 Plaintiff, )  
9 v. ) AFFIDAVIT OF COUNSEL IN  
10 JAY MICHAUD, ) SUPPORT OF SECOND MOTION TO  
11 Defendant. ) SUPPRESS EVIDENCE AND  
STATE OF WASHINGTON ) REQUEST FOR *FRANKS* HEARING  
12 ) ss.  
13 COUNTY OF PIERCE )

14 Colin Fieman, being first duly sworn and upon oath, deposes and states as  
15 follows:

16 1. This affidavit is submitted in support of Mr. Michaud's Second Motion to  
17 Suppress Evidence and Motion for *Franks* Hearing.

18 2. On November 4, 2015, the parties held a discovery conference. At that  
19 time, I was able to view a "virtual" version of "Website A" that is stored on a  
20 Government server. I was also informed by the United States Attorney's Office  
21 (USAO) that this stored version of the site was a complete and accurate copy of the site  
22 as it appeared during the time it was operated by the FBI (February 20 to March 4,  
23 2015).

24 3. It was immediately apparent upon viewing the site that its home page  
25 (also referred to in the discovery as the "log-in screen") was different from the home  
26 page described in the NIT warrant application.

4. On November 5, 2015, I asked the Government to provide “screen shots” of both the home page and the site’s “table of contents” (the first page visitors would see after logging in from the home page).

5. On November 12, 2015, I received from the USAO the screen shots attached as exhibits A and B to Mr. Michaud's Second Motion to Suppress Evidence.

6. On November 19, 2015, I asked for written confirmation (via email) from the USAO that exhibit A is an accurate copy of the site's home page as it appeared on February 20, 2015. That is the same day that the Government submitted its application for the NIT warrant in the Eastern District of Virginia, which in turn was one day after the FBI had seized control of the site.

7. The Government has confirmed (by return email on November 19) that exhibit A does in fact depict the home page as it appeared not only on February 20, but during the entire time the site was operated by the FBI.

s/ Colin Fieman  
Colin Fieman

SUBSCRIBED AND SWORN to before me this 25th day of November, 2015.

s/ Amy Strickling  
Amy Strickling  
Notary Public in and for the State of Washington.  
Residing at Tacoma.  
My appointment expires: 07/09/19